IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 24 OF 2007
IN
COMPANY PETITION NO. 9 OF 2006

Sesa Industries Ltd.
having its office at
Sesa Ghor, 20 EDC
Complex, Patto Panjim,
Goa. ... Petitioner

versus

Krishna H. Bajaj
24/25, Bharatiya Bhavan
7th Floor, 72 Marine Drive
Mumbai – 400 020. ... Applicant/Objector

Mr. S. K. Kakodkar, Senior Advocate with Mr. V. A. Lawande and Mr. Amey Kakodkar, Advocate for the Objector.

Mr. J. J. Bhat, Senior Advocate with Mr. R. G. Ramani and Mr. Riaz Chagla, Advocates for the Petitioner.

Mr. C. A. Ferreira, Assistant Solicitor General for the Central Government.

CORAM : N. A. BRITTO, J.

DATE : 13TH JULY, 2007.

ORAL ORDER

Heard the learned Counsel on behalf of the parties as well as the

learned Assistant Solicitor General.

2. Pursuant to the observations of the Division Bench in its learned Order dated 25-4-2007 in Appeal No.268/2007, stating that the Company Judge should take into consideration the said reports i.e. the reports sent by covering letters dated 17-2-2006 and 20-3-2006 to the Regional Director by the Ministry of Company Affairs before passing any final orders in the matter of approving the scheme of amalgamation of the two Companies, for considering the purpose of its relevancy, in order to grant approval; the objector has filed the application under consideration praying that copies of the said reports be furnished to the objector.

3. On behalf of the Petitioner, it is contended that the learned Division Bench has not decided on the relevancy of the said reports and has left it for this Court to decide the same, and it is the submission of the learned Senior Counsel on behalf of the Petitioner that in case this Court finds that the same is relevant he would have no objection in case copies of the same are furnished to the objector.

4. On behalf of the Central Government, Mr. C. A. Ferreira, the learned Assistant Solicitor General has drawn my attention to para 8 of the affidavit dated 29-6-2007 and has submitted that it would not be in public interest to furnish copies of the said reports to the objector and that public

interest would suffer by such disclosure since the process of the action to be taken on the said reports is not yet completed and disclosure will come in the way of smooth completion of further proceedings pursuant to the said reports.

5. On behalf of the objector, it is submitted that relevancy of documents sought to be summoned is to be determined by keeping in mind what the Apex Court has stated in **M. L. Sethi** v. **R. P. Kapur**(AIR 1972 SC 2379) which reads thus:-

> "Nor do we think that the High Court was right in holding that the documents ordered to be discovered were not relevant to the inquiry. The documents sought to be discovered need not be admissible in evidence in the enquiry or proceedings. It is sufficient if the documents would be relevant for the purpose of throwing light on the matter in controversy. Every document which will throw any light on the case is a document relating to a matter in dispute in the proceedings, though it might not be admissible in evidence. In other words, a document might be inadmissible in evidence yet it may contain information which may either directly or indirectly enable the party seeking discovery either to advance his case or damage the adversary's case or which may lead to a trail of enquiry which may have either of these two consequences. The word 'document' in this context includes anything that is written or printed, no matter what the material may be upon which

> the writing or printing is inserted or imprinted"(emphasis supplied).

4. Judgments of Courts cannot be interpreted like statutes. The observations of the learned Division Bench have got to be understood in the light of the finding of this Court in para 18 of oral order dated 9-2-2007. If this Court is required to consider the said reports before passing any final order in the matter of approving the scheme for amalgamation of the two Companies, it is desirable that the objector is in the position to render assistance to the Court and that can be done only if the objector has an opportunity to go through the said reports. This Court in unreported Judgment dated 24-2-2006 in Company Petition No.8-T-2004 had an occasion to refer to **Pratt** v. **Pratt**(1882 51 L.J. Ch 839) wherein it was stated that copies are given merely to assist the memory and if a person had right to inspection, he can learn the original by heart and then have a copy in his mind and if that is so a copy should be allowed to be given. Reference was also made to **Bevan** v. **Webb**((1901) 2 Ch 59, 74) wherein it was stated that the right to inspect implies the right to take copies.

5. The fact that the Central Government had earlier rejected the request of the objector for copies of the said reports in terms of Section 8(1)(h) of the Right to Information Act, 2005 would not be relevant consideration now in the light of observation of the learned Division Bench to deprive the objector from having copies of the said reports so as to enable the objector to make

appropriate submissions while considering the scheme of amalgamation. The Central Government has certainly not claimed privilege with reference to the said reports so as to disentitle the objector from perusing the said reports and making appropriate submissions before the Court. It is also not the case of the Central Government that the said reports contain matters concerned with national security. In fact, all these objections ought to have been taken before the learned Division Bench.

6. Consequently, the application is allowed. The objector will be entitled to take zerox copies of the said two reports at their own costs. Registry to do the needful.

7. The learned Senior Counsel on behalf of the Petitioner as well as the learned Assistant Solicitor General on behalf of the Central Government pray for stay of this order for a period of four weeks. Learned Senior Counsel on behalf of the Objector, objects. Considering the facts and circumstances of the case, the objection is overruled and stay sought for is granted.

8. In view of the stay granted Company Petition Nos. 9 and 10 will be taken up after a period of five weeks.

9. Application disposed off.

Expedited authenticated copy of the order be given to the learned Counsel for the Petitioner.

N. A. BRITTO, J.

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